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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,516	04/09/2001	Richard L. Schwartz	SMIO.0100005	6718
31625 7590 08/07/2007 BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039			EXAMINER NGO, NGUYEN HOANG	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 08/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/829,516

Applicant(s)

SCHWARTZ ET AL.

Examiner

Nguyen Ngo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This communication is in response to the amendment of 1/30/2007. Accordingly, Claims 1-48 are currently pending in the application.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 24-37 and 38-46 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claims 24, and 38, claims the non-statutory subject matter of a program. Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1754 (claim to a data structure per se held nonstatutory). Therefore, since the claimed programs are not tangibly embodied in a physical medium, encoded on a computer-readable medium and clearly recited as a computer program then the Applicants has not complied with 35 U.S.C 101.

Examiner suggests using such phrases as "A computer readable medium embedded with a computer executable program including instructions for".

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 3, 4, 9, 10, 15, 16, 24, 25, 26, 27, 32, 33, 38, 39, and 47 are rejected under 35 U.S.C. 102(e) as being anticipated by Parsons et al. (US 2002/0085701), hereinafter referred to as Parsons.

Regarding claim 1, 3, 24, 26 Parsons discloses a method for facilitating mediated virtual communication (a method for providing unified communications and messaging management based on a user's presence information, abstract);

receiving, at a mediation system (presence system 112 of figure 1), a designation of an availability status of a mediation subscriber at a mediation subscriber communication device (presence contexts, which includes "at desk", "campus roam", and "out of office", page 3 [0029]), the availability status indicating an availability of the

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mediation subscriber for receiving voice-based communication at the mediation subscriber communication device (presence contexts of where the user is, such as at desk, or off site, page 6 [0057] and figure 4b);

generating a pending mediated commitment (communication options for the current presence context such as how to forward a call, test messaging, and admin assistant, page 2 [0011]-[0012]) based on the availability status (presence context of where the user is at), the pending mediated commitment indicating a scheduled commitment with a mediated party (treatments such as taking a voice message, text messaging, or remote screening to another phone, page 3 [0029]-[0030] and figure 4g);

receiving at the mediation system, an altered context component (allowing the user to change the availability settings of devices and allowing a user to customize how their incoming calls should be handled, page 9 [0096]-[0097] and page 5 [0049])

determining the pending mediated commitment associated with the altered context component (how to communicate with the user in that associated context or customized options set by user, page 5 [0046])

facilitating, by the mediation system (presence system 112 of figure 1), a mediated follow-through operation for altering the pending mediated commitment according to the altered context component (profiles are completely customizable by an end user, so he or she can shape the exact communication experience they prefer under various condition, page 1 [0010]). Examiner thus correlates the limitation of "a mediated follow-through operation for altering the pending mediated commitment

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according to the altered context component” to a called user capable of altering the delivery options/how to handle a call based on a users availability (presence context).

Regarding claim 2, 25, Parsons discloses wherein receiving an altered context component includes receiving an altered availability status (change in presence context, page 3 [0030]).

Regarding claim 4,16, 27, 39, Parsons discloses wherein facilitating the mediated follow-through operation includes transmitting, for reception by the mediated party communication device, the revised follow-through action in response to the mediated party being contacted (deliver the call to voice mail, or route the call to another number which is inputted by the user, page 7 [0074] and [0075] and figure 4H).

Regarding claim 9, 10, 32, 33, Parson discloses wherein facilitating the mediated follow-through operation includes:

determining a revised follow-through action (profiles of how to handle a call being completely customizable by an end user, page 1 [0010]);

preparing a revised follow-through communication (options 4g08 of figure 4g) including the revised follow through action (how incoming calls to the user's desk phone are first treated, page 7 [0071] and figure 4g); and

attempting to contact, via the mediation subscriber communication device, the

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mediation subscriber associated with the pending mediated commitment (options on how to contact the user, page 7 [0072]).

Regarding claim 15, 38 Parsons discloses a method for facilitating mediated virtual communication (a method for providing unified communications and messaging management based on a user's presence information, abstract);

receiving, at a mediation system (presence system 112 of figure 1), a designation of an availability status of a mediation subscriber at a mediation subscriber communication device (presence contexts, which includes "at desk", "campus roam", and "out of office", page 3 [0029]), the availability status indicating an availability of the mediation subscriber for receiving voice-based communication at the mediation subscriber communication device (presence contexts of where the user is, such as at desk, or off site, page 6 [0057] and figure 4b);

generating a pending mediated commitment (communication options for the current presence context such as how to forward a call, test messaging, and admin assistant, page 2 [0011]-[0012]) based on the availability status (presence context of where the user is at), the pending mediated commitment indicating a scheduled voice based communication from the mediation subscriber to a mediated party (treatments such as taking a voice message, text messaging, or remote screening to another phone, page 3 [0029]-[0030] and figure 4g);

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receiving at the mediation system, an altered availability status (allowing the user to change the availability settings of devices and allowing a user to customize how their incoming calls should be handled, page 9 [0096]-[0097] and page 5 [0049])

determining the pending mediated commitment associated with the altered availability status (how to communicate with the user in that associated context or customized options set by user, page 5 [0046])

facilitating, by the mediation system (presence system 112 of figure 1), a mediated follow-through operation for altering the pending mediated commitment according to the altered availability status (profiles are completely customizable by an end user, so he or she can shape the exact communication experience they prefer under various condition,,page 1 [0010]). Examiner thus correlates the limitation of "a mediated follow-through operation for altering the pending mediated commitment according to the altered context component" to a called user capable of altering the delivery options/how to handle a call based on a users availability (presence context). Parsons further discloses producing an altered mediated commitment, wherein facilitating the mediated follow-through operation includes determining a revised follow-through action (change of call handling option) and preparing a revised follow-through communication including the revised follow-through action (profiles of how to handle a call being completely customizable by an end user, page 1 [0010]).

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Regarding claim 47 Parsons discloses a system for facilitating mediated virtual communication (a method for providing unified communications and messaging management based on a user's presence information, abstract);

a mediation system (presence system 112 of figure 1) connected to a data packet network (Internet of figure 1) and to a voice network (PSTN of figure 1), the mediation system being capable of;

receiving, at a mediation system (presence system 112 of figure 1), a designation of an availability status of a mediation subscriber at a mediation subscriber communication device (presence contexts, which includes "at desk", "campus roam", and "out of office", page 3 [0029]), the availability status indicating an availability of the mediation subscriber for receiving voice-based communication at the mediation subscriber communication device (presence contexts of where the user is, such as at desk, or off site, page 6 [0057] and figure 4b);

generating a pending mediated commitment (communication options for the current presence context such as how to forward a call, test messaging, and admin assistant, page 2 [0011]-[0012]) based on the availability status (presence context of where the user is at), the pending mediated commitment indicating a scheduled commitment with a mediated party (treatments such as taking a voice message, text messaging, or remote screening to another phone, page 3 [0029]-[0030] and figure 4g);

receiving at the mediation system, an altered context component (allowing the user to change the availability settings of devices and allowing a user to customize how their incoming calls should be handled, page 9 [0096]-[0097] and page 5 [0049])

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determining the pending mediated commitment associated with the altered context component (how to communicate with the user in that associated context or customized options set by user, page 5 [0046])

facilitating, by the mediation system (presence system 112 of figure 1), a mediated follow-through operation for altering the pending mediated commitment according to the altered context component (profiles are completely customizable by an end user, so he or she can shape the exact communication experience they prefer under various condition, page 1 [0010]). Examiner thus correlates the limitation of "a mediated follow-through operation for altering the pending mediated commitment according to the altered context component" to a called user capable of altering the delivery options/how to handle a call based on a users availability (presence context).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 5, 6, 7, 8, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 28, 29, 30, 31, 34, 35, 36, 37, 40, 41, 42, 43, 44, 45, 46, and 48 rejected under 35 U.S.C. 103(a) as being unpatentable over Parson et al. (US 2002/0085701), in view of Truetken (US 6493324), hereinafter referred to as Parson and Truetken.

Regarding claim 5, 7, 11, 13, 17, 19, 20, 21, 23, 28, 30, 34, 36, 40, 42, 43, 44, 46, Parsons fails to disclose the specific limitation of transmitting a postponement message for reception by the mediated party/subscriber communication device in response to the revised follow-through action being unacceptable to the mediated party and updating a mediated activity data set to reflect the postponement message being communicated.

Truetken however discloses a need for displaying a call placement dialog on the user interface of the calling party client (mediated party, col1 lines 52-55), and gives the motivation for such interface to effectively initiate and manage telephony sessions between users. Truetken further discloses of that the calling party client (mediated party) receives the suggested option and can select alternatives by selecting the appropriate icon such as canceling the call (transmitting a postponement message for reception by the mediated party communication device in response to the revised follow-through action being unacceptable to the mediated party, col5 line14-20).

It would have thus been obvious to one ordinary skilled in the art at the time the invention was made to incorporate the interface of the calling party to accept or decline the revised follow through action disclosed by Truetken with the method for providing

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unified communication management based on presence information as disclosed by Parsons in order to effectively initiate and manage telephony sessions.

Regarding claim 6, 8, 12, 14, 18, 22, 29, 31, 35, 37, 41, 45, Parsons and Truetken disclose all the limitations of claim 6 as discussed in claim 5. Truetken discloses of that the calling party client (mediated party) receives the suggested option and can select alternatives by selecting the appropriate icon or accepting the suggested options (facilitating the mediated follow-through operation includes performing a mediated follow-through operation in response to the revised follow through action being acceptable to the mediated party/subscriber, col5 line14-20).

Regarding claim 48, Parsons and Truetken discloses all the limitations of claim 48. Truetken discloses management between callers using, IP telephony client machines and traditional telephones, as well as other telephone devices (includes a data packet client and a computer telephone interface client, col2 lines 61-67). Truetken further discloses IP telephony client machines are networked with servers that are connected to Internet (the data packet network includes a data packet server, col2 lines 55-60). Truetken discloses that the common user interface is provided by a voice response unit that is provided at the IP telephony gateway and that the VRU interface allows public switched telephone users to receive the same services and make the same choices as a computer client connected to the internet (the voice network includes a computer

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telephone interface client server and an interactive voice response system connected to the computer telephone interface, col3 lines 30-37).

Response to Arguments

6. Applicant's arguments with respect to claim 1-48 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Dolan et al. (US 6477246), Method And Apparatus For Providing Expanded Telecommunications Service.

b) Cetusic et al. (US 2002/0025819), Wireless Communication Techniques.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen Ngo whose telephone number is (571) 272-8398. The examiner can normally be reached on Monday-Friday 7am - 3:30 pm.

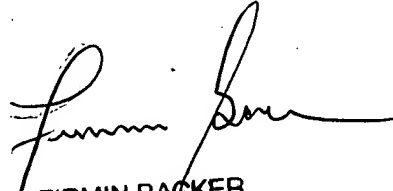
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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